

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

JERRY GROSSMAN, ET UX.,

RESPONDENTS,

v.

THOROUGHbred FORD, INC.,

APPELLANT.

DOCKET NUMBER WD69906

DATE: October 30, 2009

Appeal From:
PLATTE COUNTY CIRCUIT COURT
THE HONORABLE ABE SHAFER IV, JUDGE

Appellate Judges:
DIVISION THREE: HAROLD L. LOWENSTEIN¹, Senior Judge Presiding, JOSEPH M.
ELLIS and LISA WHITE HARDWICK, Judges

Attorneys:
Arnold R. Day, Jr., Esq., Kansas City, MO, **for appellant.**
Kimberly J. Westhusing, Esq., Kansas City, MO, **for respondent.**

¹ Judge Lowenstein was a member of the court at the time this case was submitted, but has since retired.

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

JERRY GROSSMAN, et ux.

Respondent,

v.

THOROUGHBRED FORD, INC.,

Appellant.

WD69906

Platte County

Before Division Three Judges: Harold L. Lowenstein, Senior Judge Presiding, Joseph M. Ellis and Lisa White Hardwick, Judges

Thoroughbred Ford, Inc. appeals the judgment denying its motion to compel arbitration of fraud claims brought by Jilana and Jerry Grossman. Thoroughbred contends the court erred in denying arbitration because the Grossmans failed to prove their defenses that the arbitration provision in the automobile purchase contract was unenforceable as a contract of adhesion and invalid on grounds of unconscionability.

REVERSED AND REMANDED.

Division Three holds: The Grossmans failed to establish that the purchase contract was adhesive because there was no evidence that its terms were non-negotiable. The Grossmans also failed to demonstrate that the arbitration provision was procedurally or substantively unconscionable in limiting the award of damages. In the absence of these defenses, there is no dispute that the fraud claims are

covered by the arbitration provision. Thus, the circuit court erred in denying the motion to compel arbitration; the judgment is reversed and the cause remanded for further proceedings.

Opinion by: Lisa White Hardwick, Judge

October 30, 2009

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.